

would or might determine whether silence (if his story were accepted) was an assent.

It has been suggested that Lahey is in any case bound by another kind of estoppel—it is argued that his silence (if there was a silence), and his conduct led the company not to take proceedings—that the company acted upon this silence. It is sufficient to say that there is no tittle of evidence of any such result.

I think there should be a new trial—the evidence already taken to stand, but to be supplemented as may be thought best. No doubt the full facts of the title will be gone into unless the County Judge finds an estoppel.

As it may turn out that all the evidence adduced will not advance matters, I think the costs of this appeal and of the new trial as well as the proceedings heretofore had should be in the discretion of the County Judge.

The Divisional Courts have more than once said that County Court Judges should give reasons for the conclusions they arrive at; it seems necessary to repeat this once more.

HON. MR. JUSTICE BRITTON:—It is to be regretted that the evidence tendered by Lahey in explanation of his alleged silence, when the resolution mentioned was read and passed in his presence, was rejected—Lahey was entitled in law to tell his whole story in regard to the particular transaction relied upon by the landlord—to establish Lahey's tenancy. Simply because of the improper rejection of part of the evidence Lahey was prepared to give, I agree that there should be a new trial—and on the terms mentioned by my brother Riddell. I entirely agree with the contention of counsel for the landlord—that as the law now is—it is competent for, and the duty of the County Judge—to determine the question of tenancy—and the termination of it—and that the Judge may do this on conflicting evidence. *Fee v. Adams*, 16 O. W. R. 103, and *Moore v. Gillies*, 28 O. R. 358, are in point.

HON. SIR GLENHOLME FALCONBRIDGE, C.J.K.B.:—I think that Lahey should have had the opportunity to develop his case in evidence.

There must be a new trial. I thought Lahey ought to have his costs of this appeal, but will not dissent from the view of my learned brothers as to costs.